APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,990	10/14/2003	Carlos A. Bonilla	200309108-1	7122

22879	7590	10/20/2005

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EXAMINER
LAU, TUNG S

ART UNIT	PAPER NUMBER
2863	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 September 2005</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this
or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Boudnik

et al. (U.S. Patent Application Publication 2003/0051186).

Regarding claim 1:

Boudnik discloses a computer implemented method of automatic software testing

comprising: storing status information of a software test running on a test system

to a common information point (abstract, fig. 1, unit 110); reinitializing an

operating system on said test system (page 7, section 0076); querying said

common information point to determine said status information (page 7, section

0076-0077, fig. 4, 406, 410); and resuming said software test (page 7, section

0076, fig. 8, unit 806, 808).

Regarding claim 8:

Boudnik discloses a computer implemented method of automatic software testing

comprising: installing test driver software on a plurality of test systems (fig. 6, unit

508); providing a mapping of a plurality of virtual test system names to real test

system names to said test driver software (fig. 6, fig. 5, unit 500); and gathering

test results from said plurality of test systems (fig. 4).

508

**POST MORTEM
OBJECT**

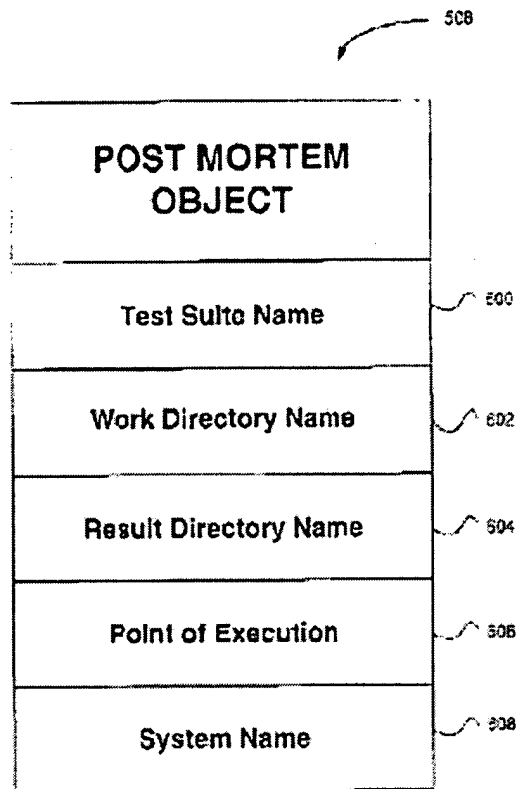| Test Suite Name | 600 |
Work Directory Name	602
Result Directory Name	604
Point of Execution	606
System Name	608

FIG. 6

Regarding claim 14:

Boudnik discloses a computer system for automatic software testing comprising:

a test master computer system (fig. 1, unit 108); a plurality of test computer

systems communicatively coupled to said test master computer system (fig. 1,

unit 114); a common information point communicatively coupled to said test

master computer system and to said plurality of test computer systems (fig. 1,

unit 114); said test master computer system for installing a test driver on each of

said plurality of test computer systems (fig. 1, unit 116); at least one of said

plurality of test computer systems for storing status information of a software test

(fig. 2, unit 116) running on said at least one of said plurality of test computer

systems to said common information reinitializing an operating system on said at

least one of said plurality of test computer systems (page 7, section 0076);

querying said common information point to determine said status information;

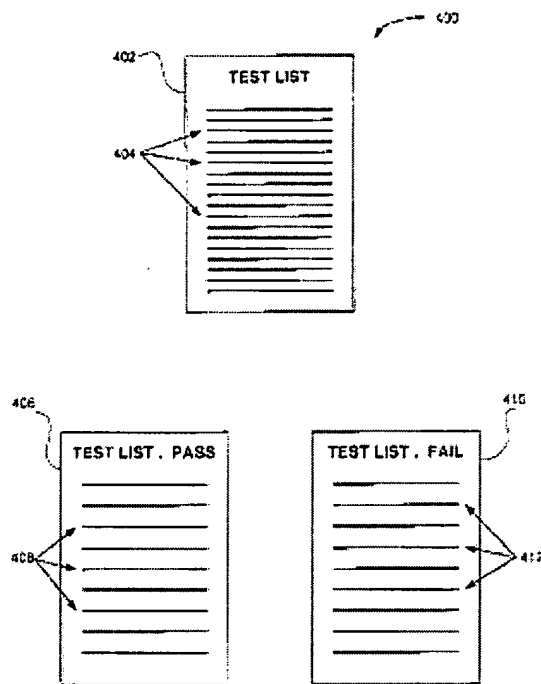and resuming said software test (page 7, section 0076, fig. 4).

FIG. 4

Regarding claims 2, 9, Boudnik discloses common point to run the test (fig. 1,

unit 108); Regarding claims 3, 16, Boudnik discloses reinitializing under software

control (page 7, section 0076); Regarding claims 4, 17, Boudnik discloses startup

process initial by operating system (fig. 8, unit 802, 808); Regarding claim 5,

Boudnik discloses identification of test completed (fig. 4, unit 406, 410);
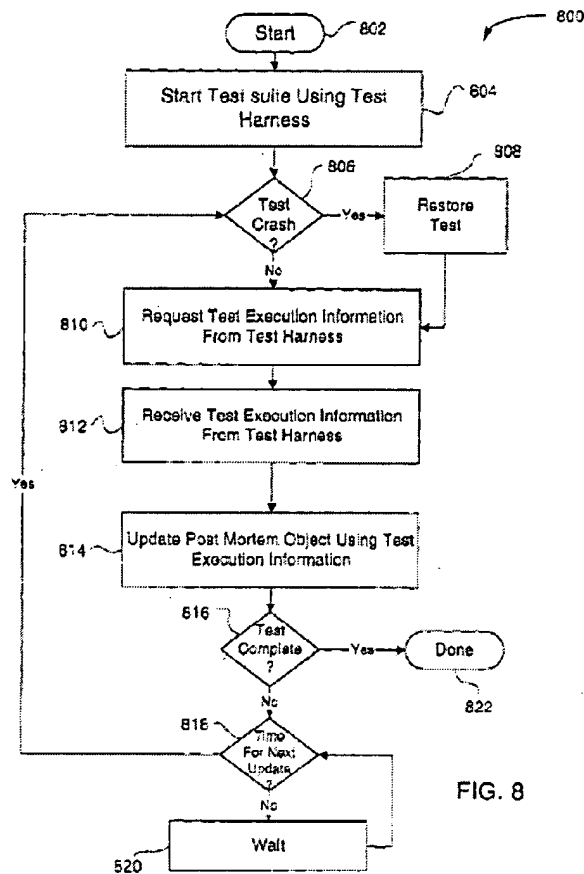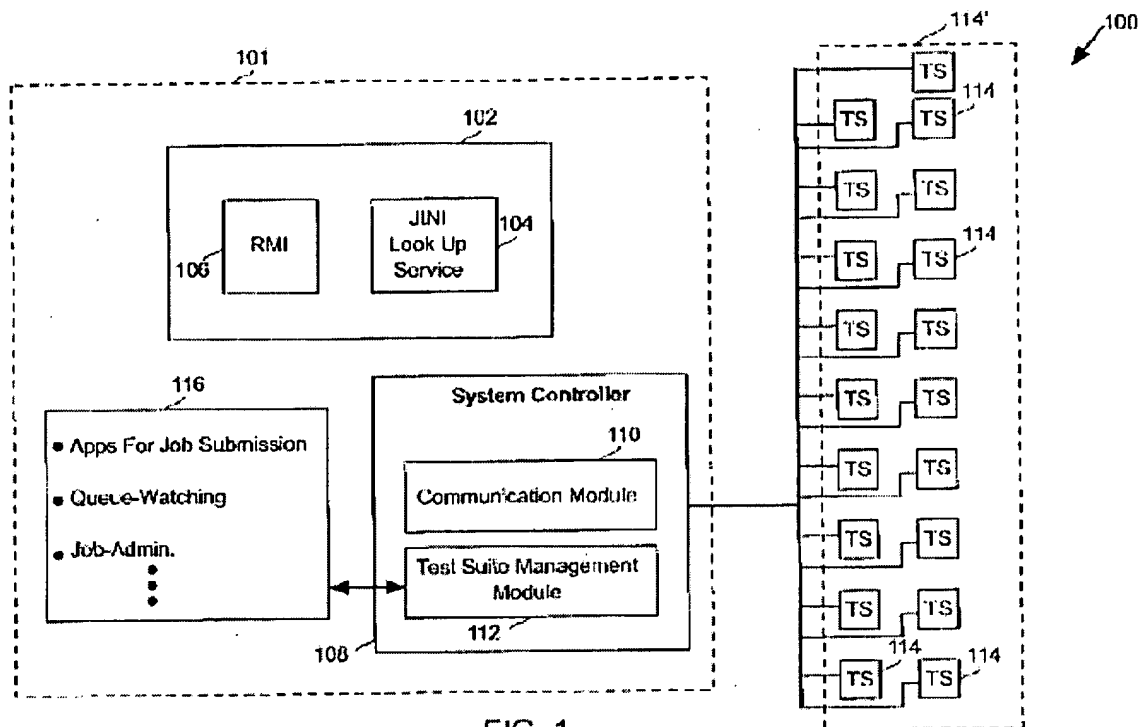
FIG. 8

Regarding claim 6, Boudnik discloses resuming restarts points to last portion completer (page 7, section 0077, fig. 4); Regarding claims 7, 20, Boudnik discloses test system running a different operating system reinitializing (fig. 2, unit 114a-114d, 108, page 7, section 0077); Regarding claim 10, Boudnik discloses result are gathered common point (fig. 2, unit 108); Regarding claim 11, Boudnik discloses mapping resides on common pint of information (fig. 2, unit 114a-aa4d, fig. 3, unit 104).

FIG. 1

Regarding claim 12, Boudnik discloses common point of information is a network

file system mount point common on all test sytem (fig. 3, unit 104, 108);

Regarding claim 13, Boudnik discloses start up a process (fig. 8, unit 802);

Regarding claim 15, Boudnik discloses master computer is distinct from test

computer system (fig. 2, unit 108, 114a-114d); Regarding claim 18, Boudnik

discloses status information portion of test completed (fig. 4, unit 408, 412);

Regarding claim 19, Boudnik discloses resuming restarts to last portion

completed (fig. 4, unit 408, 412, page 7, section 0076).

Response to Arguments

2.   Applicant's arguments filed 09/26/2005 have been fully considered but they are

not persuasive.

A. Applicant argues in the arguments that the prior art 'teach away' the invention.

Reminds to the applicant that arguments that the alleged anticipatory prior art is

nonanalogous art' or teaches away the invention' or is not recognized as solving

the problem solved by the claimed invention, [are] not germane 'to a rejection

under section 102'. Twin Disc, Inc. v. United States, 231 U SPQ 417, 424 (Cl. Ct.

1986) (quoting In re Self, 671 F.2d 1344, 213 USPQ 1, 7 (CCPA 1982)). See

also State Contracting & Eng 'g Corp. V. Condotte America, Inc, 346F3d 1057,

1068, 68 USPQ2d 1481, 1488(Fed. Cir.2003). (The question of whether a

reference is analogous art is not relevant to whether that reference anticipates. A

reference may be directed to an entirely different problem than the one

addressed by the inventor, or may be from an entirely different filed of endeavor

than that of the claimed invention, yet the reference is still anticipatory if it

explicitly or inherently discloses every limitation recited in the claims.)

B. Applicant continues to argue in the arguments that the prior art does not teach

'restarting at a specific point'. Boudnik clearly discloses 'restarting at a specific

point' in page 1, section 0009. Boudnik discloses here that a test program can

continue to test and resume at a crash point, therefore Boudnik discloses

'restarting at a specific point'.

C. Applicant continues to argue in the arguments that the prior art does not teach 'reinitializing an operating system on said test system'.

Reminds to the applicants that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Boudnik clearly discloses 'reinitializing an operating system on said test system' in page 1, section 0009, fig. 8, unit 802. Boudnik discloses here that a test program restart and continue to test and resume at a crash point. Inherently for one of ordinary skill in the art at the time the invention was made to know that when a test system starts, it also initializes the system as shown in fig. 4, fig. 8, unit 802. Therefore Boudnik discloses 'reinitializing an operating system on said test system'.

D. Applicant continues to argue in the arguments that the prior art does not teach 'test system running a different operating system'. Boudnik clearly discloses 'test system running a different operating system' in fig. 2, unit 114d –114a.

E. Applicant continues to argue in the arguments that the prior art does not teach 'installing driver software on a plurality of test system'. Boudnik clearly discloses 'installing driver software on a plurality of test system' in fig. 4, unit 400, fig. 2,unit 116a-116c, fig. 8, unit 804. One of ordinary skill in the art at the time the invention was made to know that in order to access test hardness, one must have the 'driver' to access and test it.

F. Applicant continues to argue in the arguments that the prior art does not teach 'providing a mapping of a plurality of virtual test system names to real test system names to test driver software'. Boudnik clearly discloses 'providing a mapping of a plurality of virtual test system names to real test system names to test driver software' in fig. 4, unit 400, 506, 410, fig. 2, unit 116, fig. 6, fig. 8, unit 804.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

3.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tung S Lau whose telephone number is 571-272-

2274. The examiner can normally be reached on M-F 9-5:30. If attempts to

reach the examiner by telephone are unsuccessful, the examiner's supervisor,

John Barlow can be reached on 571-272-2269. The fax phone numbers for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR

only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free).

TL

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PRIMARY EXAMINER

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